



HEALTH CARE BLOG

Hospital Program for Free Support Services for Caregivers – Approved by OIG

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A recent Office of Inspector General (OIG) advisory opinion approved a proposal under which a hospital has established a caregiver center that provides or arranges for free or reduced-cost support services to caregivers in the local community (Arrangement). The OIG, basing its opinion on the facts provided, concluded that it would not impose sanctions even though the Arrangement could potentially generate prohibited remuneration under the anti-kickback statute.

Under the proposed Arrangement, the hospital created a center as a department of the medical center (Center) to provide or arrange for certain support services for individuals in its community who care for adults with chronic medical conditions. The vast majority of the Center's staff were unpaid volunteers who receive volunteer training through the hospital. The Center's operating budget is funded by an associated foundation which is a nonprofit corporation organized and operated exclusively to foster support for the hospital's mission and activities. The hospital certified that private donations fund all of the Center's operating costs and that none of the Center's costs are shifted to any Federal health care program.

The request described detail supporting the assumption that many caregivers of patients with chronic conditions are not paid and experience high levels of personal and financial strain. This information established a convincing case for the necessity of a caregiver support program and appears to have had an impact on the OIG's analysis.

The primary purpose of the program was to advocate and provide care coordination for caregivers. The program offered and/or arranged for a variety of free and fee-based support services, including educational programs, resource libraries, support groups, equipment lending, and other support services. The advisory opinion identified a variety of additional support services made available through the program.

The OIG identified the issue presented to be whether services provided to support caregivers, which can also benefit the patient, were likely to create an inducement for the patient to select the hospital's services. The OIG acknowledged that the offering of caregiver support services could potentially influence the selection of the hospital as service provider which could implicate the civil monetary penalty for beneficiary inducement. The OIG concluded that neither the "promote access to care exception" or the "financial need-based exception" protected the proposed arrangement.

Even though the OIG concluded that neither of these exceptions applied, it stated that it would not enforce sanctions for several reasons including:

1. The services provided have very little tie to federally reimbursable services and the risk that the free service might influence a caregiver is relatively low.
2. The Center makes its services available to all caregivers without regard for whether the caregiver or recipient will receive care through the hospital.

3. The hospital does not actively market the caregiver program.
4. Caregivers support personnel are instructed not to direct caregivers or patients to the hospital. Rather, they are provided with lists of a variety of area providers.
5. Financial support comes from donations and volunteer services and not from government reimbursement.

The OIG concluded that the safeguards helped mitigate the inducement risk of the proposed arrangement. It was also evident the OIG was impacted by the alleviation of some of the support needs of caregivers.

Arrangements of this type that create clear benefits and meet a documented need seem to gain favorable review by the OIG. This is not a carte blanche permitting providers to do whatever they want as long as patients receive a benefit or a need is met. These types of programs still require careful structuring to mitigate any inducement factor. The beneficial aspects of these programs, together with other structural elements, help show that the arrangement is not simply a mechanism to induce referrals.

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